

Notice of Allowability

Application No.

09/681,327

Examiner

Ted T. Vo

Applicant(s)

SMITH ET AL.

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/16/04.
2. ☒ The allowed claim(s) is/are 1-5.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

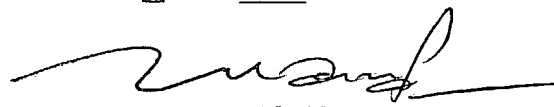
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 8/14/200.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



TUAN DAM
SUPERVISORY PATENT EXAMINER

1. The Amendment After Final filed under 37 CFR 1.111 and the Declaration/Affidavit filed under 37 CFR 1.131 and CFR 1.132, on 6/16/04 have been considered.

The filing Declaration and Affidavit to swear behind the prior art of records, Chou et al., "Instruction Path Coprocessors", Carnegie Mellon University, Department of ECE, March 2000 overcome the prior Final action (mailed date: 04/08/04). The art of record, Chou et al (March 2000) remains the closest art of record through extended searches.

Reasons for Allowance

2. Claims 1-5 are allowed.

Closest art of record, Chou filed on March 2000, discloses an architecture comprising a core processor that generates optimized code from legacy code. The core processor is in communication with memories and a central processor, provided with means for switching execution between the legacy code and the optimized code.

However, Applicants traverse the rejection under 35 USC 102(a) as being anticipated by Chou, by filing the Declaration and an Affidavit to swear behind. As stated by Applicants (re: Declaration Under 37 C.F.R. 1.131, page 1, indentation No. 2) in regard to the submitted Exhibit A, BUR8-2000-0106 that the creation date deleted from Exhibit A, BUR8-2000-0106, is prior to March 2000, describes the solution of the present invention. Therefore, the following is an examiner's statement of reasons for allowance: The cited prior arts taken alone or in combination fail to teach claimed invention to a method, an operating system, computer readable media for resolving a program code module comprising features:

"A data processing system, comprising:

A system memory for storing legacy code;

a central processing unit in communication with said system memory;

a code-optimizing coprocessor in communication with said system memory and said CPU,

wherein said code-optimizing coprocessor generates a plurality of optimized code from said legacy code

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to be stored within said system memory while said CPU is executing said legacy code, wherein said plurality of optimized code is more optimized for execution within said CPU than said legacy code; and means for switching an execution of said legacy code by said CPU to an execution of said plurality of optimized code, in response to an encounter of a switch point", as recited in independent claim 1.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM ET. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam, can be reached on (703) 305-4552.

The fax phone numbers:

(703) 872-9306 (for formal communication intended for entry);

(703) 746-5429 (for informal or draft communication, please label "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


TUAN DAM
SUPERVISORY PATENT EXAMINER

TTV
June 25, 2004

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